

**MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, FEBRUARY 28, 2017
MEETING ROOM B - THIRD FLOOR COURTHOUSE**

Members Present: Mark Klevgaard, Tom Jensen, Amos Baer, Randy Schellack, Bill Davis, Tim Brendemuhl, Jenny Mongeau, Joel Paulsen, Curt Stubstad.

Members Absent: Andrea Koczur, Dan Langseth

Others Present: Tim Magnusson, Lynne Spaeth, Steven Beitelspacher, Dan Hanson, Chris Heger, Tracy Spaeth, Bill Spaeth, Doreen Gwin, Kathleen Smith, Sheila Toczek, Richard Toczek, Markell Briden, Kent Tweten, Paul Banneman, Larry Henry, Darryl Johnk, Tammy Johnk, Daniel Moore, Rick Bannerman, Chad Murray, Randy Ellefson, Kara Ellefson, Bill Henning, Beverly Henning, Paul Wibe, Anna Jean Wibe, Claudia Murray, David Heng, Emily Ehalt, Eric Saign, Raymond Reading, Eric DeBilt, David Schroeder, Gary Anderson, Berta Teschendorf, Kelly Wambach, Steve Opitril, Tami Hauf.

APPROVAL OF AGENDA

On motion by Bill Davis, seconded by Joel Paulsen, and unanimously carried, the Commission approved the Agenda.

APPROVAL OF MINUTES

On motion by Jenny Mongeau, seconded by Tom Jensen, and unanimously carried, the Commission approved the January 24, 2017 minutes as presented.

CITIZENS TO BE HEARD

There were no citizens to be heard on matters not on the Agenda.

NORTHWEST EXCAVATING LLC - REQUEST FOR INTERIM USE

The applicant is seeking approval of an Interim Use Permit to allow the siting and establishment of an asphalt batch plant and its associated uses such as stockpiling and crushing of materials. The property is in the SW Quarter NE Quarter and NW Quarter SE Quarter, Section 17, T138N, R48W (Kurtz Twp.) in the Agricultural General (AG) zoning district.

On motion by Tim Brendemuhl, seconded by Curt Stubstad, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson informed the commission that the applicant had applied for a variance for the setback of an asphalt plant. Prior to this meeting the Board of Adjustment met and did not grant this variance. There was no location on the property that could meet the setback requirements. Magnusson said there was no other avenue than for the Planning Commission to deny the request for the interim use permit.

The property line setback is 500 feet and they proposed 50 feet. The setback from a residence is 1,000 feet and they proposed 500 feet. The Board of Adjustments heard it, took testimony from both sides and decided there was no practical difficulty involved.

Magnusson presented a map and identified the 1,000-foot setback and the proposed setback line.

The applicant, Steve Opatril, of Northwest Excavating, was present to answer questions. He presented a brief history of how this issue evolved into the variance application. Originally the company was looking for a location to do stockpiling and concrete. They approached Karlstrom Farms to see if he was interested in selling any land. Karlstrom was only willing to sell 40 acres.

Opatril explained to obtain a permit for stockpiling and crushing in the county, it must fall under an asphalt, concrete or mining permit. Northwest opted to go with asphalt to begin the permit process. FM Asphalt approached the Northwest inquiring if they would be willing set up shop with FM Asphalt under Northwest's permit and on their land. The Township had approved 20 acres of the land for the applicant's intended use.

Magnusson suggested amending the Development Code to make an allowance for a provision for stockpiling material not associated with mining concrete or asphalt.

The applicant chose to withdraw the application.

On Motion by Jenny Mongeau, seconded by Tom Jensen, and unanimously carried, the Planning Commission closed the hearing.

GREAT BASIN INC/NUGGET INVESTMENT LLC – PRELIMINARY PLAT

The applicant is seeking review and approval of a preliminary plat for a 10 lot, residential subdivision. The proposed subdivision would be located in the N Half NE Quarter, Section 17 and S Half SE Quarter, Section 8, T139N, R45W (Hawley Twp.) in the Agricultural General (AG), and Resource Protection-Aggregate (RP-Agg) zoning districts. A rezoning from RP-Agg is pending.

On motion by Curt Stubstad, seconded by Bill Davis, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson informed the commission that the applicant had applied for a variance for the setback from a feedlot. Prior to this meeting the Board of Adjustment met and denied the variance request. The issue being, it did not meet the setback requirement. Magnusson presented aerial views and a preliminary plat and outlined the setback and property lines. The plat will need to be redrafted to remove the lots on the south side. There could be a total of 16 lots in this proposed subdivision but after revising the plat, there will be 10 lots.

Magnusson added the biggest issue is that 12th Avenue South is, a no-maintenance road. It is specific in the ordinance that you cannot plat a subdivision on a no-maintenance road. Any plat on 12th Avenue would have to be contingent on 12th Avenue being constructed to the minimum standards of a township road prior to construction.

Discussion occurred regarding no maintenance roads, turnarounds and cartways.

Magnusson explained how the variance, if granted, would be reciprocal. The subdivision could impact the feedlot owner's ability to expand, which was another issue. Furthermore, the proposed subdivision would only lose 2-3 lots due to denial of the variance.

Raymond Reading, the applicant, was present for questions.

It was discussed and explained to the applicant, that he could either table this request or withdraw it. Magnusson assured Reading that the fees would be waived at the time of resubmission. The applicant chose to withdraw the application.

On Motion by Bill Davis, seconded by Tom Jensen, and unanimously carried, the Planning Commission closed the hearing.

ARIC SAIGN - REQUEST FOR INTERIM USE

The applicant is seeking approval of an Interim Use Permit to allow approximately 1,950 sf. of an existing building to be used as a banquet room/event center. The building currently houses a commercially licensed kitchen used for a catering business. The property is in the NW Quarter NW Quarter, Section 9, T138N, R47W (Elmwood Twp.) in the Agricultural General (AG), Flood Fringe (FF) and Floodway (FW) zoning districts.

On motion by Tim Brendemuhl, seconded by Curt Stubstad, and unanimously carried, the Planning Commission opened the public hearing.

Magnusson summarized that the applicant currently holds a permit for on-site catering for Casey Jo's Catering. The same building used for catering would be used for the event center. It would require additional restroom facilities. He introduced a map of the property, the facility, aerial views of the roads, the applicant's residence, and other buildings. Parking lots would be in two locations. The floodway could be a problem as it hits a portion of the applicant's property. No parking would be allowed on any public road. Magnusson displayed a photograph of the flooded road taken on February 25, 2017. The property is in the 100-year floodplain and the floodway hits the northeast corner of the building so anything sewer related to the east could not be approved. The Fire Marshall would need to determine maximum occupancy of the building. Access could be made from different locations, all being gravel roads.

Magnusson stressed that there have been many comments and concerns regarding this request, consisting of noise, traffic, flooding and dust.

Aric Saign, the applicant, and his fiancé Markell Briden, were present for questions. Saign conveyed the intended uses would include wedding parties, receptions corporate events and meetings. No wedding ceremonies would take place on the premises. They plan to operate the event center during the slow months of their catering business. Saign assured that all music would be played indoors. He verified that the building could only hold about 100 people when staffed.

The applicant thoroughly noted that events would be cancelled or people would be bussed in when or if it should flood. He confirmed that the water had never gone over the road. Questions and

discussions revolved around flooding possibilities, access roads and parking issues.

Kent Tweten, applicant's neighbor to the north, said he does not want anyone to stand in Aric's way and believes it is positive for the area. Tweten stands behind Saign's request.

Darryl Johnk, board member of Elmwood township, stated that the Township had voted on this request and if the County approved it, then the Township would. Their understanding was that if it floods, they wouldn't be holding any events. The Township did not think the water was an issue. It was suggested that Saign map out the route for customers.

David Schroeder is a farmer next door to the applicant. He states that Aric and Markell are good neighbors. He points out that if it is flooding, it would be difficult to find room for cars to park. Schroeder spoke to his insurance company about liability and if he increased his insurance it would be an additional \$600 per year. Schroeder's driveway is not far from Saign's and he is concerned about the alcohol and people going onto his fields.

Berta Teschendorf, a neighbor of applicant also stated that Aric and Markell are good neighbors. She declared there were several neighbors who voiced concerns. She provided a packet compiled by her and other neighbors that contained maps, pictures and nine concerns, including but not limited to: safety of location, lack of safe parking space, liability concerns from insurance company, flooding, alcohol consumption, excessive traffic, and noise.

Eric DeBilt, and his fiancé Emily Ehalt are neighbors of the applicant. They are concerned with the noise but more concerned about the alcohol being served and people driving at night. They do not want their peace and quiet being disrupted.

Gary Anderson, has lived across the river from the applicant since 2001. He enjoys the quiet country and believes it is going to be loud with parties.

Kelly Wambach lives straight east of Aric and Markell. He stated that noise is his main concern. If music is limited to inside the building, he has no problem with it. He has concerns about security and added that liability could be an issue.

Tami Hauf, a neighbor reiterated the comments of the aforementioned. She is concerned about her daughters driving on the road with intoxicated drivers. She added that the gravel roads are not maintained and there are no arms on the railroad crossings. She doesn't feel the roads can handle that much traffic. Noise was also a concern for her.

On Motion by Jenny Mongeau, seconded by Curt Stubstad, and unanimously carried, the Planning Commission closed the hearing.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All of the items can be addressed with conditions and none of them warranted further discussion.

Concerns were voiced regarding the access roads, off street parking, traffic hazards and low flood areas.

Conditions were deliberated with the applicant with regard to the days and hours of operation, parking lots, amplified music, maximum occupancy, security, liquor license, trespassing and timeframe.

On Motion by Tom Jensen, and seconded by Curt Stubstad, and unanimously carried, the Planning Commission approved the application for Interim Use to allow approximately 1,950 sf. of an existing building to be used as a banquet room/event center on property located in the NW Quarter NW Quarter, Section 9, T138N, R47W (Elmwood Twp.) with the following conditions:

- 1) Parking is permitted per the parking plan submitted by the applicant; No parking will be allowed on the access roads or on any public road;**
- 2) Permitting by Environmental Health for sanitary facilities and food/beverage service;**
- 3) The facility may operate seven days a week from September 1 through June 15; hours shall be 5:00 a.m. to 11:00 p.m.; amplified music will be permitted indoors only, from 5:00 p.m. until 10:00 p.m., seven days a week.**
- 4) Alcoholic beverages will be limited to 4:00 p.m and 11:00 p.m., seven days a week, with security provided by the licensed vendor.**
- 5) Maximum occupancy shall be 125 people while the kitchen is not in operation; and 99 people at such times the kitchen is being staffed.**
- 6) A fence shall be constructed on the South side of the property.**
- 7) This Permit will become null and void if the applicants close the facility for a period of 12 or more consecutive months or at such time there is a conveyance of the property.**
- 8) Sanitary facilities shall be permitted and constructed to meet all Clay County and Minnesota State standards.**

Adjourn:

On motion by Jenny Mongeau, and seconded by Curt Stubstad, and unanimously carried, the meeting adjourned at 9:00 p.m.

Thomas Jensen, Planning Commission Secretary